MASSACHUSETTS SUPREME JUDICIAL COURT.

Heart Disease and the Massachusetts Workmen's Compensation Law.

In re MADDEN. (Feb. 7, 1916.)

The Massachusetts workmen's compensation law does not provide for compensation for occupational diseases as such. "Personal injury" is the only ground for compensation. But whatever is rightly described as a "personal injury" if received in the course of and arising out of the employment becomes the basis for a claim.

The fact that an employee is suffering from a disease does not bar the right to compensation even though the injury would not have occurred had the employee been in good health; but the injury must be one which arises out of and in the course of the employment.

Under the Massachusetts workmen's compensation law an employee who has a weak heart and whose work requires exertion which so aggravates and accelerates the disease as to incapacitate her is entitled to compensation.

Mrs. Honora E. Madden was employed at work which required the pulling of heavy carpet over a table. She stated that one morning she "felt something give" and had "an awful pain under her heart," but she continued at work. Later she "felt something else give way," and she was taken to the hospital. The Industrial Accident Board found that "the work which Mrs. Madden was doing on the day on which the injury was received so aggravated and accelerated a weak heart condition as to incapacitate her for work." The board decided that Mrs. Madden was entitled to compensation under the Massachusetts workmen's compensation law, and the court affirmed the award.

In the opinion Chief Justice Rugg said:

* * * * * * *

[111 Northeastern Reporter, 379.]

"The standard established * * * by our workmen's compensation act as the ground for compensation is simply the receiving of 'personal injury arising out of and in the course of' the employment. This standard is materially different from that of the English act and of the acts of some of the States of this Nation. That standard is 'personal injury by accident,' both in the act of 1897 and 1906.

* * * * * * *

"The 'personal injury by accident' which by the English act is made the prerequisite for the award of financial relief, is narrower in its scope than the simple 'personal injury' of our act.

* * * * * * *

"An illustration of the difference between 'personal injury' and 'personal injury by accident' put by Lord Reading, the present Chief Justice of England, in the case last cited [Trim Joint District School Board *v.* Kelly, 1914 A. C., 667, 679] at page 720, is apposite in this connection:

"For example, if a workman became blind in consequence of an explosion at the factory, that would constitute an injury by accident; but if in consequence of the nature of his employment his sight was gradually impaired and eventually he became blind, that would be an injury, but not an injury by accident.

* * * * * * *

"Although the Ohio act in this respect is similar to ours, the history and terms of the Ohio constitutional amendment touching the subject, and of the governing statute and construction placed upon it by the administrative board, led to an interpretation of intent to restrict the operation of that act to personal injuries by accident by a chain of reasoning which has no relevancy to our act. Industrial Commission of Ohio *v.* Brown (91 Ohio, —; 110 N. E., 744). [Public Health Reports, May 19, 1916, p. 1269.]

* * * * * * *

"Varying facts may give rise to questions of difficulty. In this connection it is to be noted that there is no explicit provision for compensation for occupational disease as such. 'Personal injury' is the only ground for compensation. The legislative

principle declared by the workmen's compensation act, to the test of which all cases arising under it must be subjected, is that whatever rightly is describable as a 'personal injury,' if received 'in the course of and arising out of' the employment, becomes the basis for a claim.

* * * * * * *

"Without undertaking to define 'personal injury' or to go beyond the requirements of the facts here presented, it is enough to say that the occurrence described by the defendant when she said she 'felt something give' and 'felt something else give way,' accompanied by the symptoms of angina pectoris, may have been found to be a 'personal injury.'

"That injury also may have been found to have arisen out of the employment. The pulling of the carpet, although not requiring such putting forth of muscular power as would have affected a healthy person, yet may have been enough to cause the injury which the employee suffered. It could have been regarded as resulting from the work as a contributing proximate cause.

* * * * * * *

"It is the injury arising out of the employment and not out of disease of the employee for which compensation is to be made. Yet it is the hazard of the employment acting upon the particular employee in his condition of health and not what that hazard would be if acting upon a healthy employee or upon the average employee. The act makes no distinction between wise or foolish, skilled or inexperienced, healthy or diseased employees. All who rightly are describable as employees come within the act.

* * * * * * *

"A high degree of discrimination must be exercised to determine whether the real cause of an injury is disease or the hazard of the employment. A disease which under any rational work is likely to progress so as finally to disable the employee does not become a 'personal injury' under the act merely because it reaches the point of disablement while work for a subscriber is being pursued. It is only when there is a direct causal connection between the exertion of the employment and the injury that an award of compensation can be made. The substantial question is whether the diseased condition was the cause, or whether the employment was a proximate contributing cause. In the former case, no award can be made; in the latter, it ought to be made. This in substance is the test stated in McNichol's Case, 215 Mass., 497, 499; 102 N. E., 697. * * * This point is governed by Brightman's Case (220 Mass., 17; 107 N. E., 527). [Public Health Reports, May 14, 1915, p. 1455.]

* * * * * * *

"It was competent for the industrial accident board to find that the employee had received a 'personal injury in the course of and arising out of' her 'employment,' according to the true meaning of those words in the workmen's compensation act."